



(Billing Code 5001-06)

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 203

RIN 0750-AI48

Defense Federal Acquisition Regulation Supplement: Deletion of Certification Requirement Regarding Separation of Duties of Senior Leaders (DFARS Case 2015-D003)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to delete the requirement for DoD departments and agencies to certify every two years that no senior leader has performed multiple roles in the acquisition of a major weapon system or major service.

DATES: Effective [Insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, telephone 571-372-6106.

SUPPLEMENTARY INFORMATION:

I. Background

DFARS 203.170(a) implements a Defense Procurement and Acquisition Policy (DPAP) memorandum, dated September 17, 2008,

which has now been rescinded because the necessary information is incorporated in the DFARS and the DFARS companion document, "Procedures, Guidance, and Information (PGI)." However, departments and agencies are no longer required to submit every two years to DPAP (Contract Policy and International Contracting) a certification that no senior leader has performed multiple roles in source selection for a major weapon system or major service acquisition.

II. Publication of this final rule for public comment is not required by statute

"Publication of proposed regulations", 41 U.S.C. 1707, is the statute that applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it only affects the roles of senior leaders within the Department of Defense in source selection for a major weapon

system or major service acquisition. These requirements affect only the internal operating procedures of the Government.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501-1 and 41 U.S.C. 1707 does not require publication for public comment.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of

Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 203

Government procurement.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR part 203 is amended as follows:

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

1. The authority citation for 48 CFR part 203 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

2. In section 203.170, revise paragraph (a) to read as follows:

203.170 Business practices.

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(a) Senior leaders shall not perform multiple roles in source selection for a major weapon system or major service acquisition.

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